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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/368,828	08/05/1999	ALEXANDER MASHINSKY	9118-037	5985

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PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 100362711

EXAMINER

TIEU, BINH KIEN

ART UNIT PAPER NUMBER

2643

DATE MAILED: 03/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

574

Office Action Summary

Application No.
09/369,828

Applicant(s)
MASHINSKY et al.

Examiner
Binh K. Tieu

Art Unit
2643



– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Feb 15, 2002

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-27 and 38-73 is/are pending in the applica

4a) Of the above, claim(s) _____ is/are withdrawn from considera

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-27 and 38-73 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirem

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

- 1. ☐ Certified copies of the priority documents have been received.
- 2. ☐ Certified copies of the priority documents have been received in Application No. _____
- 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 2643

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 1-27 and 38-73 is withdrawn in view of the newly discovered reference(s) to U.S. Patent No. 6,226,365, 6,005,926, 6,144,727 and 6,269,157.

Rejections based on the newly cited reference(s) follow.

Double Patenting

2. Claims 1-27, 38-73 and 75-77 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,005,926 (shortly called '926), claims 1-154 of U.S. Patent No. 6,144,727 ('727) or claims 1-40 of U.S. Patent No. 6,226,365 ('365) in view of Coyle (U.S. Patent No. 6,269,157).

Regarding claims 1-27, 38-73 and 75-77, sets of claims 1-11 of '926, claims 1-154 of '727 and claims 1-40 of '365 each teaches a telecommunications sale system and a method for trading telecommunication services comprising the basic features of receiving from seller an offer to sell telecommunications service; receiving from buyer an offer to purchase a required telecommunications service; receiving both said offers from both seller and buyer at a server node; matching said sell and purchase orders and brokering a transaction of telecommunications service.

It should be noticed that each set of claims in all above three patents fails to clearly teach class of service (i.e., levels of quality for each service) assigned by sellers and requested by buyer.

Art Unit: 2643

However, Coyle teaches such feature in col.2, line 64 - col.3, line 4; col.7, lines 33-36; col.27, lines 9-20; also see dependent claims 8, 25 and 46 of the Patent.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the telecommunications service request with specified class of service from buyer and offered from sellers, as taught by Coyle into view of '926, '365 or '727 in order to complete calls to geographic regions with satisfied routing service and avoiding telecommunications traffic congestion at the time.

3. Claims 1-27, 38-73 and 75-77 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 155-252 and 254-256 of U.S. Application No. 09/551,190 (shortly called '190) or claims 15-29 of U.S. Application No. 09/692, 769 ('769) in view of Coyle (U.S. Patent No. 6,269,157).

Regarding claims 1-27, 38-73 and 75-77, each set of claims of '190 or of '769 teaches a telecommunications sale system and a method for trading telecommunication services comprising the basic features of receiving from seller an offer to sell telecommunications service; receiving from buyer an offer to purchase a required telecommunications service; receiving both said offers from both seller and buyer at a server node; matching said sell and purchase orders and brokering a transaction of telecommunications service.

It should be noticed that each set of claims in all above Applications fails to clearly teach class of service (i.e., levels of quality for each service) assigned by sellers and requested by buyer.

Art Unit: 2643

However, Coyle teaches such feature in col.2, line 64 - col.3, line 4; col.7, lines 33-36; col.27, lines 9-20; also see dependent claims 8, 25 and 46 of the Patent.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the telecommunications service request with specified class of service from buyer and offered from sellers, as taught by Coyle into view of '190 or '769 in order to complete calls to geographic regions with satisfied routing service and avoiding telecommunications traffic congestion at the time.

Art Unit: 2643

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Binh K. Tieu** whose telephone number is **(703) 305-3963** and E-mail address: **BINH.TIEU@USPTO.GOV**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Mr. Curtis Kuntz**, can be reached on **(703) 305-4708** and Customer Service **(703) 306-0377**.

Any response to this action should be mailed to:


Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist, tel. No. 703-305-4700).

A handwritten signature in black ink, appearing to read 'Binh Tieu', with a long horizontal line extending to the right.

**BINH TIEU
PRIMARY EXAMINER**

Art Unit 2643

Date: March 18, 2002